

Court of Appeals, State of Michigan

ORDER

Sylvia Wynns v Fountain Court Consumer Housing Cooperative

Docket No. 252713

LC No. 02-243749-NO

Peter D. O'Connell
Presiding Judge

Bill Schuette

Stephen L. Borrello
Judges

The Court's opinion in this case, which was released on July 5, 2005, erroneously held that we did not have jurisdiction to review appellants' challenge to the dismissal of the breach of contract claim because appellants failed to specifically challenge the June 25, 2003 order of summary disposition in their claim of appeal from the November 25, 2005 final order. That reasoning is erroneous because a final order subsumes a prior order that was not appealable by right and, therefore, the appellant is free to raise issues related to the earlier order. *Bonner v Chicago Title Ins Co*, 194 Mich App 462, 272; 487 NW2d 807 (1992); *Dean v Tucker*, 182 Mich App 27, 31; 451 NW2d 571 (1990). Despite the error, we nevertheless affirm the trial court's grant of summary disposition on the ground that appellants failed to establish a genuine issue of material fact that defendant Fountain Court breached a contractual duty to allow Brascia Cannon to reside at the cooperative. The Occupant Agreement clearly shows that only Wynns signed it and that Cannon's name does not appear anywhere on the document. Although the trial court granted summary disposition on this claim under MCR 2.116(C)(8), we hold that summary disposition was instead proper under MCR 2.116(C)(10). See *Energy Reserves, Inc v Consumers Power Co*, 221 Mich App 210, 216; 561 NW2d 854 (1997) (holding that an order granting summary disposition under the wrong subrule may be reviewed by this Court under the correct subrule). This Court will not reverse where the trial court reaches the right result, albeit for the wrong reason. *Mulholland v DEC Int'l Corp*, 432 Mich 395, 411 n 10; 443 NW2d 340 (1989); *Taylor v Laban*, 241 Mich App 449, 458; 616 NW2d 229 (2000).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUL 14 2005

Date

Sandra Schultz Mengel
Chief Clerk